

46 Am. Jur. 2d Judges § 187

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Judges

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IX. Disqualification to Act in Particular Case

C. Remedies and Procedure

3. Motion for Disqualification and Affidavit

b. Affidavit of Prejudice

§ 187. Attorney's certificate of good faith accompanying affidavit of prejudice to disqualify judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  51(3)

Forms

Forms relating to affidavits for disqualifying judges, generally, see Am. Jur. Pleading and Practice Forms, Judges; Am. Jur. Pleading and Practice Forms, Motions, Rules, and Orders; Am. Jur. Pleading and Practice Forms, Criminal Procedure [\[Westlaw®\(r\) Search Query\]](#)

Some statutes and rules require that an affidavit of bias and prejudice be accompanied by a certificate of counsel of good faith.¹

The good faith of the affiant is not determined by an objective standard; rather, the affiant must in good faith believe that the assigned judge cannot provide the affiant with a fair trial.²

Practice Tip:

Counsel's function is limited to making the certificate of good faith; the affidavit of prejudice must still be that of the party.³



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Footnotes

- 1 State ex rel. Ray Wells, Inc. v. Hargreaves, 306 Or. 610, 761 P.2d 1306 (1988).
- 2 State v. Tapio, 432 N.W.2d 268 (S.D. 1988).
- 3 Peterson v. McKinley, 45 Haw. 44, 361 P.2d 60, 92 A.L.R.2d 301 (1961).

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